

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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YVONNE CHIU, on behalf of herself and all
other persons similarly situated,

Plaintiff,

-against-

For Online Publication Only

ORDER

18-CV-05091 (JMA) (AKT)

AMERICAN YUEXIANGGUI OF LI LLC
d/b/a LOU JOE RESTAURANT and XING MEI
CHEN,

Defendants.

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AZRACK, United States District Judge:

**FILED
CLERK**

11:44 am, Sep 30, 2021

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

Plaintiff Yvonne Chiu (“Plaintiff”) commenced this action against Defendant American Yuexianggui of LI LLC d/b/a Lou Joe Restaurant and individual Defendant Xing Mei Chen (collectively, “Defendants”), pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq., and the New York Labor Law. On November 16, 2020, Defendants moved for summary judgment. (ECF No. 64.) On November 17, 2020, the late Honorable Sandra J. Feuerstein referred Defendants’ motion to Magistrate Judge A. Kathleen Tomlinson for a Report and Recommendation (“R&R”). (Electronic Order, Nov. 17, 2020.) This case was reassigned to the undersigned on June 11, 2021 following the passing of Judge Feuerstein. On July 26, 2021, Judge Tomlinson issued an R&R recommending that Defendants’ motion for summary judgment be denied. (ECF No. 72.)

In reviewing a magistrate judge’s report and recommendation, the court must “make a de novo determination of those portions of the report or . . . recommendations to which objection[s][are] made.” 28 U.S.C. § 636(b)(1)(C); see also Brown v. Ebert, No. 05–CV–5579, 2006 WL 3851152, at *2 (S.D.N.Y. Dec. 29, 2006). The court “may accept, reject, or modify, in

whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Those portions of an R&R to which there is no specific reasoned objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48, 51 (E.D.N.Y. 2008).

To date, no objections have been filed to the R&R and the deadline for filing any such objections has passed.

I have reviewed Judge Tomlinson’s R&R for clear error, and finding none, I adopt the R&R in its entirety as the opinion of this Court. Accordingly, the Defendants’ motion for summary judgment is **DENIED**.

I now turn to the various other outstanding applications before me.

When this case was pending before Judge Feuerstein, all requests to extend the discovery deadline had to be submitted to her, and not to Magistrate Judge Tomlinson. I hereby grant Magistrate Judge Tomlinson the authority to grant an extension of the discovery deadline if she determines that such an extension is appropriate. I am denying, without prejudice, Plaintiff’s pending motion which seeks reconsideration concerning the discovery deadline and leave to file an amended complaint. (ECF No. [50].) Plaintiff may renew those requests to Magistrate Judge Tomlinson in accordance with her individual rules.

Finally, this matter is hereby referred to Magistrate Judge Tomlinson for a settlement conference in light of the denial of Defendants’ motion for summary judgment.

SO ORDERED.

Dated: September 30, 2021
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE